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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,507	09/29/2003	Young-Kwang Byun	4653-0105P	8178
2292	7590	11/02/2004		
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
			EXAMINER BOMBERG, KENNETH	
			ART UNIT 3754	PAPER NUMBER

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/671,507

Applicant(s)

BYUN, YOUNG-KWANG

Examiner

Kenneth Bomberg

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION*****Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed invention must be shown or the feature(s) canceled from the claim(s). Specifically the three sheets of formal drawings filed with the application do not correspond to the specification, claims, and abstract or foreign priority document drawings. The foreign priority document drawings include six sheets of drawings, which correspond with the pending application. It appears that the application was inadvertently filed with the incorrect drawings. Applicant is encouraged to view the application drawings. No new matter should be entered<sup>1</sup>.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified

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and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

2. Claim 1 is objected to because of the following informalities: In line 1, "The cosmetics" should be changed to --A cosmetics-- to improve the form of the claim. Appropriate correction is suggested.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The claim is rejected under 35 U.S.C. 103(a) as being unpatentable over Garriss (US 1,591,678) in view of Johnson (US 1,943,893) and Yaneza (US 4,957,125).

Garriss teaches of a cosmetics case substantially according to the claim and including:

A cosmetics case (Fig. 1) comprising an upper movable part (19) and a case body (1), the case body (1) mounted with a plug (2) at bottom portion of the case body,

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<sup>1</sup> Applicant should consider filing a Continuation In Part application with the correct drawings as the presentation of the foreign priority document drawings will result in a new matter objection.

wherein the case has a discharging tube (8) covered with a wetting part (20) and a piston (25) screw-coupled to a screw rod (6), both being secured to the upper movable part (19) and inside of the case body (1); an inner hole (10) formed on top end of the screw rod (6); and a hollow (12) on bottom portion of the inner hole (10) so that the liquid in the case body flows to the wetting part (20) through the discharging tube (8).

Garris fails to teach of:

a cap 60 coupled to the upper part and the inner hole fitted with a spring 42 and a reversing ball 43 according to the claims.

Yaneza teaches on a cosmetics apparatus to cover the bristles (34) with a cap (13) in order to facilitate packing for travel. It would have been obvious to one having ordinary skill in the art to have incorporated the cap (13) of Yaneza into the dispenser of Garris in order to facilitate packing for travel as explicitly taught by Yaneza (see Yaneza column 2, lines 19-21).

Johnson teaches on a cosmetics apparatus to fit an inner hole (10) with a spring (13) and a reversing ball (11) in order prevent the mass behind the ball from drying out. It would have been obvious to one having ordinary skill in the art to have incorporated the spring (13) and a reversing ball (11) of Johnson into the dispenser of Garris in order to prevent the mass behind the ball from drying out as explicitly taught by Johnson (see Johnson lines 72-83).

***Conclusion***

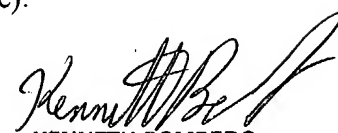
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining prior art listed on the attached Notice of references cited has been included because they show dispensing devices using pistons on threaded rods for advancement.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Bomberg whose telephone number is 703-308-2179. The examiner can normally be reached on Monday, Tuesday, Thursday and alternative Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on 703-308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

K.B.

  
KENNETH BOMBERG  
PRIMARY EXAMINER